

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

WEDNESDAY, THE 14TH MARCH 2007 / 23RD PHALGUNA 1928

OP.No. 14852 of 2002(R)

PETITIONER:

A.RAMLA, MANAGING PARTNER,
M/S.MARK CLAY PRODUCTS, CHADIRAMKULAM,
CHANDANATHOPE, KOLLAM-14.

BY ADV. SMT.V.P.SEEMANDINI
SRI.P.S.DIVAKARAN
SRI.T.R.RAJESH

RESPONDENTS:

1. STATE OF KERALA, REPRESENTED BY THE
CHIEF SECRETARY, GOVERNMENT SECRETARIAT, TRIVANDRUM.
2. DIRECTOR OF INDUSTRIES AND COMMERCE,
TRIVANDRUM.
3. THE GENERAL MANAGER,
DISTRICT INDUSTRY CENTRE, KOLLAM.
4. DEPUTY COMMISSIONER,
COMMERCIAL TAXES, CIVIL STATION, KOLLAM.

BY G.P. SRI.C..K.GOVINDAN

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD
ON 14/03/2007, ALONG WITH WPC NO. 30937 OF 2003, THE
COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ORDER ON C.M.P. NO.25030/2002 IN O.P. NO.14852/2002

DISMISSED:

14.3.2007

SD/-(C.N.RAMACHANDRAN NAIR, JUDGE.)

APPENDIX

PETITIONER'S EXHIBITS:

P1: TRUE COPY OF PERMANENT REGISTRATION CERTIFICATE DT.22.2.92 ISSUED BY R2.

P2: TRUE COPY OF REGISTRATION CERTIFICATE UNDER K.G.S.T. RULES, 1963.

P3: .DO. UNDER C.S.T. RULES, 1957.

P4: TRUE COPY OF PROCEEDINGS DT.10.8.95 ISSUED BY R3.

P5: TRUE COPY OF CERTIFICATE OF VALUATION DT.28.10.98 OBTAINED FROM A CHARTERED ACCOUNTANT.

P6: TRUE COPY OF THE SANCTION ORDER DT.8.6.2000 ISSUED BY K.F.C.

P7: TRUE COPY OF LETTER DT.6.2.2002 ISSUED BY DIST.MANAGER, KFC, KOLLAM.

P8: TRUE COPY OF LETTER DT.5.9.00 RECEIVED FROM R3.

P9: TRUE COPY OF LETTER DT.21.1.2002 ISSUED BY R3.

TRUE COPY

P.S. TO JUDGE

C.N.RAMACHANDRAN NAIR, J.

.....
O.P. No. 14852 of 2002 &
W.P.(C) No.30937 of 2003
.....

Dated this the 14th day of March, 2007.

JUDGMENT

Brick industry was granted sales tax exemption vide SRO 1729/93. However, Government later withdrew the exemption vide SRO 404/94 dated 1.4.94 which is under challenge.

2. I heard counsel for the petitioner and the Government Pleader appearing for respondents. Section 10(3) of the KGST Act authorises Government to withdraw or modify sales tax exemption granted by it. Exemption is a matter of policy and the court has no jurisdiction to interfere with policy decisions on exemption. The petitioner has no allegation of discrimination because all similar industries are put to the same disability by withdrawing exemption. Moreover, withdrawal is also not retrospective and so much so, petitioner has not suffered any loss because petitioner could collect the tax and remit the same. In the circumstances, the writ petitions are devoid of any merit and are dismissed. However, since stay was granted by this court in 2003 and in between there was amnesty scheme, I feel petitioners can be granted reduction of one third interest payable under Section 23(3) of the KGST Act provided arrears are paid with two third of

interest payable under Section 23(3) in two equal monthly instalments, first of which will be paid on or before 31st of this month and the balance on or before 30.4.2007. However, if payment is not made as above, then reduction of interest granted herein will stand cancelled and respondents will be free to proceed for recovery of entire arrears.

C.N.RAMACHANDRAN NAIR
Judge

pms